

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
) CRIMINAL NO. 05-10154-MLW
v.)
)
JOHN J. DIAMONT, JR.,)
 Defendant)

GOVERNMENT'S MOTION TO DISCLOSE GRAND JURY TESTIMONY

Now comes the United States, by its attorney, pursuant to Fed. R. Crim. P. 6(e)(3)(E)(i), and moves for permission to disclose certain grand jury testimony to the defendant in this case, and states:

1. The defendant has made automatic discovery requests for all information in the Government's possession concerning the criminal liability of Steven Strogoff, the son of Yale Strogoff (a cooperating witness) and all statements of witnesses that the defendant did not make large cash expenditures.

2. The United States is aware of portions of grand jury transcripts which are responsive to one or more of the defendant's automatic discovery requests. The United States is willing to produce such portions of grand jury transcripts to the defendant, without agreeing with the defendant that such transcript portions are exculpatory or discoverable.

3. Fed. R. Crim. P. 6(e)(2)(B) provides that an attorney for the government must not disclose a matter occurring before the grand jury, absent a specific exception in the rules of criminal procedure. Rule 6(e)(3)(E)(i) provides the Court may

authorize disclosure of a grand jury matter "preliminary to or in connection with a judicial proceeding." Such disclosure requires a showing of "particularized need." Douglas Oil Co. v. Petrol Stops Northwest, 441 U.S. 211, 222 (1979).

4. The United States believes that this case is a "judicial proceeding" and the defendant's requests constitute sufficient "particularized need" to warrant disclosure in this case.

WHEREFORE, the United States requests that the Court enter the attached proposed order authorizing the United States to disclose to the defendant portions of grand jury transcripts responsive to the defendant's automatic discovery requests.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By:

/s/ Peter A. Mullin
PETER A. MULLIN
Assistant U.S. Attorney

Dated: November 8, 2005

CERTIFICATE OF SERVICE

I, Peter A. Mullin, Assistant U.S. Attorney, hereby certify that I have caused a copy of the foregoing document to be served on counsel of record by electronic filing this 8th day of November, 2005.

/s/ Peter A. Mullin
PETER A. MULLIN
Assistant U.S. Attorney

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ORDER

This matter is before the Court on the motion of the United States, pursuant to Fed. R. Crim. P. 6(e)(3)(E)(i), and the Court having found there is "particularized need" for this disclosure, it is hereby ORDERED:

that the United States may disclose to the defendant in this case, and his counsel, such portions of any grand jury transcript as is responsive to any automatic discovery request the defendant has made in this case.

It is so Ordered.

HONORABLE JUDITH G. DEIN
United States Magistrate Judge

Entered this ____ day of November, 2005 at Boston, MA.